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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/701,459	12/04/2000	Nils Arthun	11894	9954

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Orum & Roth  
53 West Jackson Boulevard  
Chicago, IL 60604-3606

EXAMINER

KOCH, GEORGE R

ART UNIT	PAPER NUMBER
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1734

DATE MAILED: 06/03/2003

12

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/701,459	ARTHUN, NILS
	Examiner	Art Unit
	George R. Koch III	1734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 11 March 2003.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-20 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-20 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____.
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.	6) <input type="checkbox"/> Other: _____.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1, 2, 5, 6, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Hensley (US 5,775,158).

Hensley discloses a crimping tool having two jaws (Figure 1, items 10 and 12) movable towards each other and capable of crimping sealing means on a hose, and cutting means (Figure 4, items 11 and 13) capable of making a cutting indication on a sleeve and hose to allow a sealing cutting of the hose. Hensley is capable of making a cutting indication in a sleeve and hose.

As to claim 2, Hensley discloses two straight bars (items 26 and 28) as claimed.

As to claim 3, Hensley discloses that the cutting edges project further than the bars (see Figure 2).

As to claim 5, Hensley discloses that the cutting edges are substantially halfway between the two straight bars (26 and 28)

As to claim 6, Hensley discloses that the cutting edge is on side of at least one bar.

As to claim 11, Hensley discloses that the cutting edges project further than the bars.

***Claim Rejections - 35 USC § 103***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1-6, 11-13 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hensley (US Patent 5,775,158) in view of Owens (US Patent 5,768,935).

Hensley discloses a crimping tool having two jaws (Figure 1, items 10 and 12) movable towards each other and capable of crimping sealing means on a hose, and cutting means (Figure 4, items 11 and 13) capable of making a cutting indication on a sleeve and hose to allow a sealing cutting of the hose, while the bars (items 26 and 28) make a crimp the edges of the article being cut. Such bars would place a sealing cut into a sleeve and hose combination..

Hensley does not disclose a sleeve which cooperates the bars and the cutting tool.

Owens discloses a reinforcing crimping device which makes three indentations in a sleeve on a hose to reinforce the sleeve (Figure 4, items 24, 25, and 26). Owens discloses that crimping multiple times allows for the hose to be compressed tightly on the underlying material (column 3, lines 8-23). Therefore, it would have been obvious to include multiple bars that crimp without cutting as suggested by Owens in the device of Hensley in order to ensure that the sleeve or hose is firmly placed on the underlying material.

As to claim 2, Owens discloses using multiple crimping devices to make the crimps (items 24, 25, and 26).

As to claim 3, Hensley's cutting means has a substantially straight cutting edge (item 34).

As to claim 4, Owen's discloses an opposite recess for the cutting means (see Figure 4).

As to claim 5 and 6, the location of the crimping device to the cutting edge is well known and conventional and is determined by the intended use of the device. One of ordinary skill in the art would realize that placing the cutting edge between the bar/bars, as in claim 5, would be the preferred design when the device is intended to crimp the hose on both sides of the cutting device, such as when the operator wants to cut off two liquid filled regions from each other. One of ordinary skill in the art would also realize that placing the cutting edge on one side of the bar/bars, as in claim 6, would be selected when the device is intended to crimp only one side of the cut, leaving the other side of the cut significantly undeformed so that it presents a fresh tube opening for further applications. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to have incorporated one of these two cutting edge-bar relations in order to make the device more suitable for the intended use and more desirable to the purchaser of the crimping tool.

As to claim 11, Hensley and Owens combined would disclose that the cutting edge projects farther than either the bar or bars due to the recess.

As to claim 12, see rejection of claim 5.

As to claim 13, see rejection of claim 6.

As to claim 20, Hensley and Owens as applied above discloses the two jaws as claimed (see rejection of claims -6 and 11-13) and which can perform a crimp function. Hensley specifically disclosed above discloses the jaw and Owens as applied discloses the bars.

5. Claims 7-10 and 14-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hensley and Owens as applied to claims 1-5 above, and further in view of Undin et al (US Patent 4,637,242).

As to claims 7 and 14, Hensley and Owens as applied to any of claims 1 through 5 do not disclose the presence of a fixture to position the sleeve on the hose.

Undin discloses a fixture structure (see Figure 4, item 25), which is a fixture designed to position the overlaying portion on an underlaying portion in a crimping operation (it appears that the device is especially suited for crimping telephone connections to telephone wires). The fixture 25 ensures that proper positioning of the two sections that are being crimped together (see column 1, lines 5-38, and other sections, which disclose that the driving impetus of the Undin invention is using the fixture 25 to properly location and crimp the two portions).

As to claims 8-10 and 15-17, Hensley discloses making the crimping device such that the elements are disposed on the jaws, with the cutting edge on one jaw, and the recess on the other jaw, and that the jaws are manufactured in one piece. Similarly, Pfaff discloses that the device is designed to be hand actuated by driving means

(item 30). Similarly, the driving means is a gear similar to item 10 in applicants specification and claimed in claims 10 and 17.

As to claim 18, see the subject material of the rejections of claims 4 (which corresponds to lines 2-3 of claim 18), claim 7 (lines 4-5 of claim 18), claim 8 (which corresponds to lines 6-8 of claim 18), claim 9 (which corresponds to lines 9-12 of claim 18) and claim 10 (which corresponds to lines 13-15 of claim 18) above.

As to claim 19, see the subject material of the rejections of claims 4 (which corresponds to lines 2 of claim 18), claim 7 (which corresponds to lines 4-5 of claim 18), claim 8 (which corresponds to lines 6-8 of claim 18), claim 9 (which corresponds to lines 9-12 of claim 18) and claim 10 (which corresponds to lines 13-15 of claim 19) above.

### ***Response to Arguments***

6. Applicant's arguments filed 3-11-2003 have been fully considered but they are not persuasive.
7. In response to applicant's argument that Hensley does not disclose making a cutting indication on a sleeve, or even a sleeve, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235

(CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963). Hensley is considered capable of making the cutting indication.

8. Further, the sleeve, or sealing means, are not considered part of the apparatus (or appliance), but is rather considered part of the workpiece. Support for this is present in the preamble of claim one, which recites: An appliance *for* mechanical sealing of hollow hoses of elastic material with a sealing means.

9. Furthermore, as to applicants argument that the cutting edge (item 11) of Hensley does not project further than the bars (item 26), see figure 2, which discloses such projection.

10. Furthermore, as to arguments that Hensley only discloses cutting, and not crimping, attention is directed to the first line of the abstract of Hensley, which recites "A die structure for use in a tool which *crimps* or *cuts* a workpiece..." Thus, Hensley also functions as a crimping tool, and one would utilize the relevant sections of Hensley with the relevant sections of Owens.

### ***Conclusion***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to George R. Koch III whose telephone number is (703) 305-3435 (TDD only). If the applicant cannot make a direct TDD-to-TDD call, the applicant can communicate by calling the Federal Relay Service at 1-800-877-8339 and giving the operator the above TDD number. The examiner can normally be reached on M-Th 10-7.

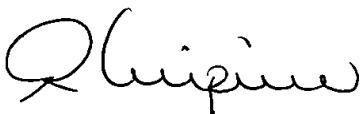
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (703) 308-3853. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7718 for regular communications and (703) 305-3599 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



George R. Koch III  
June 1, 2003



Richard Crispino

RICHARD CRISPINO  
SUPERVISORY PATENT EXAMINER  
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